

**COMMITTEE ON LIMITED JURISDICTION COURTS
MINUTES**

Wednesday, September 1, 2010

10:00 to 12:00

Conference Room 119 A/B

1501 W. Washington Street

Phoenix, AZ 85007

MEMBERS PRESENT:

Honorable Antonio F. Riojas

Ms. Carla Boatner

M. C. Daniel Carrion

Ms. Faye Coakley

Honorable Timothy Dickerson

Honorable Maria Felix

Honorable Sam Goodman

Honorable Eric Jeffery

Mr. Patrick Kotecki

Honorable Dorothy Little - *telephonic*

Honorable MaryAnne Majestic

Honorable Arthur Markham

Ms. Lisa Royal

Honorable J. Matias Tafoya

MEMBERS ABSENT:

Honorable Jeffrey A. Klotz

Mr. Doug Pilcher

Ms. Marla Randall

Ms. Valerie Winters

PRESENTERS/GUESTS:

Ms. Melinda Hardman

Mr. Stewart Bruner

Ms. Nancy Swetnam

Ms. Kandace French

Mr. Ken Kung

Mr. Jerry Landau

Ms. Theresa Barrett

Ms. Jennifer Green

Mr. Ken Vick

STAFF:

Mr. Mark Meltzer

Ms. Tama Reily

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, Judge Antonio Riojas, Chair, called the September 01, 2010, meeting of the Committee on Limited Jurisdiction (LJC) to order at 10:00 a.m.

Members and guest introduced themselves. Judge Riojas welcomed the following new members to the committee:

Judge Eric Jeffery, Phoenix Municipal Court

Judge Arthur Markham, Prescott Consolidated Court

Judge MaryAnne Majestic, Tempe Municipal Court

Ms. Carla Boatner, Court Administrator, Chandler Municipal Court.

B. Approval of Minutes

The minutes of the May 5, 2010 LJC meeting were presented for approval.

MOTION: To approve the May 5, 2010 LJC meeting minutes as presented. Motion seconded. Passed unanimously.
LJC-10-007

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. Supreme Court Rule 124 Draft Revisions

Ms. Melinda Hardman, Court Analyst in the Administrative Office of the Courts (AOC), Court Services Division (CSD), and Mr. Stewart Bruner, Manager of Strategic Planning in the AOC Information Technology Division (ITD), presented information regarding the revision of Supreme Court Rule 124; Electronic Filing, Delivery, and Service of Documents (SCR 124). Mr. Bruner provided an overview of SCR 124, which was originally put in place to authorize electronic filing of court documents. He explained the current efforts to modify the rule to accommodate the unified statewide e-filing system for courts. Their goal is to complete a rule petition by the January 2011 rule petition deadline, and they anticipate presenting the draft rule petition to LJC at its October 27 meeting. They are providing this advance notice to alert the committee they will be asked at that time to review the draft and provide feedback in a short turn-around time.

B. ACJA § 7-205: Defensive Driving

Ms. Nancy Swetnam, AOC Director of the Certification and Licensing Division (CLD), and CLD staff member, Ms. Kandace French, presented proposed changes to ACJA § 7-205: Defensive Driving. Ms. French explained that the practical application of the code section since its October 2009 revision revealed the need to simplify and clarify certain processes. A draft of the proposal was included in today's meeting materials. Ms. French directed members' attention to several of the proposed changes, including fee change notification requirements for court diversion fees and school fees, disclosure requirements for schools' total fee amounts, the seven day rule, and the ineligible completion processing fee, both of which contribute to a significant reduction in errors. They are requesting the LJC support the proposed changes.

MOTION: To recommend adoption of the proposed amendments to ACJA § 7-205: Defensive Driving, as presented. Motion seconded. Passed unanimously. LJC-10-008

C. Guilty Pleas by Mail (*Item taken out of order*)

Judge Timothy Dickerson, member, updated the committee on the latest version of proposed amendments to Rule 17.1(a)(4), Rules of Criminal Procedure and the corresponding form 28(a). During discussion, there were several concerns raised about the plea by mail process, including:

- potential complications in cases involving probation
- lack of consideration for concurrent or previous time served
- possible issues related to the requirement of the defendant's presence at sentencing
- difficulty for courts to establish a 'factual basis'
- potential identity issues due to lack of a fingerprint

After extended discussion, the committee agreed that the goal of the proposed process is simplicity for both the courts and the defendants; therefore, cases in which the sentence may involve probation will be excluded from the plea by mail process. Furthermore, it was determined that the stipulation excluding cases with possible jail term sentences will also state '*unless the defendant will or can be sentenced to time served or is currently incarcerated*'. In addition, a statement will be added for the defendant's signature, to relinquish the right to personally appear for sentencing.

Members also considered the matter of establishing a factual basis and determined that the citation and long form complaint provide sufficiently for this. The likelihood that the lack of a fingerprint could lead to subsequent identity issues was not felt to be a significant risk, particularly because the defendant must sign the plea form in front of a notary public. The committee also agreed that to maintain uniformity and minimize confusion, courts should include instructions with the form 28(a).

MOTION: To approve proposed amendments to Rule 17.1(a)(4), Rules of Criminal Procedure and draft Form 28(a) with additional changes discussed today, for proposal to the AJC in December 2010. Motion seconded. Passed Unanimously. LJC-10-009

D. Legislative Update

Mr. Jerry Landau, AOC Director of Government Affairs, briefed the committee on legislation that may impact limited jurisdiction courts. He related that the bulk of the proposals received thus far are internal probation proposals. Mr. Landau requested the committee's opinion on the one proposal expected to affect limited jurisdiction court: A.R.S. § 12-269: Probation funding; counties with a population of two million or more persons; surcharge; support. He explained the statute pertains to the funding of probation in Maricopa County, but its provision allowing for a county 'assessment' of twenty dollars for persons convicted of a criminal offense or civil traffic violation needs to be amended to conform to the language in A.R.S. § 12-114.01, which covers the 14 other counties. Monies collected under the assessment go to a probation services fund.

MOTION: To support proposed amendments to A.R.S. § 12-269; Probation funding; counties with a population of two million or more persons; as presented today. Motion seconded. Passed unanimously. LJC-10-010

Mr. Landau then shared some of the issues being discussed currently at the legislature. He also informed the committee there is a transportation conference Thursday (9/2) and Friday (9/3) of this week, where discussion is expected to take place on SB 1030 from the 2009 session, which removed the mandatory minimum sentences for driving on a suspended license effective January 1, 2010. AOC legal staff are researching whether the law effects cases cited on or after Jan 1, or cases in the system on Jan 1. He stated the courts will likely see cases coming on this issue.

E. ACJA § 1-401: Minimum Accounting Standards (MAS)

Mr. Ken Kung, Financial Specialist in the CSD's Court Operations Unit, presented proposed changes to ACJA § 1-401: Minimum Accounting Standards (MAS). He summarized the history and composition of the Financial Review Workgroup (FAW), which began a review of MAS in 2009. He reported that the code changes being proposed today are the result of the work of FAW. Mr. Kung touched on the following changes that:

- eliminated redundant standards already mandated by statute
- eliminated standards too difficult for courts to implement due to automation restrictions
- created standards for online merchant processing and electronic fund transfers
- updated language to accommodate the many electronic and automated processes
- clarified language and definitions

MOTION: To approve proposed ACJA § 1-401: Minimum Accounting Standards as presented. Motion seconded. Approved unanimously LJC-10-011

Mr. Kung added that the proposed ACJA § 1-401 is available on the ACJA forum at <http://azdnn.dnnmax.com/forumacja/Forum/tabid/111/Default.aspx> for any parties interested in providing comment.

F. LJC Subcommittees

Judge Riojas, Chair, discussed the current status of LJC subcommittees, which were identified as follows:

Standing Subcommittees

Executive Subcommittee
Legislative Subcommittee
Rules/Forms Subcommittee
Implementation Subcommittee

Ad Hoc Subcommittees

Defensive Driving Subcommittee
Electronic Documents Subcommittee
Judicial Performance Subcommittee
Records Retention Subcommittee

Judge Riojas pointed out that these subcommittees, with the exception of the Defensive Driving Subcommittee, have been inactive for some time now. He

recommended the disbanding of the inactive groups at this time. He added that the subcommittees can be re-established by the Chair as the need arises.

MOTION: To disband the inactive LJC subcommittees as discussed, with the understanding that the Chair may re-establish a subcommittee when the need arises. Motion seconded. Passed unanimously. LJC-10-012

Additionally, Judge Riojas reported that Ms. Joan Harphant, Chair of the Defensive Driving subcommittee, is retiring and a replacement Chair will be needed. Judge Goodman offered to assume this role. Hence, Judge Riojas appointed Judge Sam Goodman as the new Chair of the LJC Defensive Driving Subcommittee.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

No public comments offered.

B. Next Meeting

Wednesday, October 27, 2010

10:00 am to 2:30 pm

State Courts Building

Conference Room 119 A/B